

**PUBLIC UTILITY EASEMENT AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gregory S. Bell**

House Sponsor: Wayne A. Harper

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**LONG TITLE**

**General Description:**

This bill modifies a provision relating to public utility easements.

**Highlighted Provisions:**

This bill:

- ▶ defines "protected utility easement";
- ▶ provides that a person may not acquire an interest in a public utility easement or protected utility easement that is adverse to or interferes with the public utility's full use of the easement; and
- ▶ provides that a gas corporation's, electric corporation's, or telephone corporation's failure to possess, occupy, or use a protected utility easement does not diminish or extinguish the corporation's rights under the easement.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**54-3-27**, as last amended by Laws of Utah 2007, Chapter 268

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **54-3-27** is amended to read:

**54-3-27. Public utility easement.**

30 (1) As used in this section[, "~~public~~]:

31 (a) "Protected utility easement" means a recorded easement or right-of-way:

32 (i) for the use and installation of a utility facility; and

33 (ii) the ownership of which a gas corporation, electric corporation, or telephone  
34 corporation acquires and holds by any lawful means.

35 (b) "Public utility easement" means the area on a recorded plat map or other recorded  
36 document that is dedicated to the use and installation of public utility facilities.

37 (2) (a) A public utility easement provides a public utility with:

38 (i) the right to install, maintain, operate, repair, remove, replace, or relocate public  
39 utility facilities; and

40 (ii) the rights of ingress and egress within the public utility easement for public utility  
41 employees, contractors, and agents.

42 (b) Notwithstanding Subsection (3), a public utility shall restore or repair, at the  
43 expense of the public utility, any fence, grass, soil, shrubbery, bushes, flowers, other low level  
44 vegetation, sprinkler system, irrigation system, gravel, flat concrete, or asphalt damaged or  
45 displaced from the exercise of the easement rights described in Subsection (2)(a).

46 (3) Except as provided in Subsection (2)(b), if a property owner places improvements  
47 to land that interfere with the easement rights described in Subsection (2)(a), the property  
48 owner shall bear the risk of loss or damage to those improvements resulting from the exercise  
49 of the easement rights described in Subsection (2)(a).

50 (4) (a) Except as provided in Subsection (4)(b), a public utility easement is  
51 nonexclusive and may be used by more than one public utility.

52 (b) Notwithstanding Subsection (4)(a), a public utility may not:

53 (i) interfere with any facility of another public utility within the public utility  
54 easement; or

55 (ii) infringe on the legally required distances of separation between public utility  
56 facilities required by federal, state, or local law.

57 (5) A subdivision plat that includes a public utility easement may not be approved by

58 a county or municipality unless the subdivider has provided the county or municipality proof  
59 that the subdivider has, as a courtesy, previously notified each public utility that is anticipated  
60 to provide service to the subdivision.

61 (6) A person may not acquire, whether by adverse possession, prescription,  
62 acquiescence, or otherwise, any right, title, or interest in a public utility easement or protected  
63 utility easement that is adverse to or interferes with a public utility's full use of the easement  
64 for the purposes for which the easement was created.

65 (7) A gas corporation's, electric corporation's, or telephone corporation's failure to  
66 possess, occupy, or use a protected utility easement does not diminish or extinguish any right  
67 that the gas corporation, electric corporation, or telephone corporation has under the easement.

68 (8) Nothing in this section may be construed to affect the right of a condemnor to  
69 condemn a public utility easement as provided by law.